



STATE OF ARKANSAS
**Department of Finance
and Administration**

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McFadden, et al. v. Weiss, No. OT-99-3939
NOTICE OF POSSIBLE REFUND

TO: (1) ALL FEDERAL RETIREES WHO PARTICIPATED IN THE CIVIL SERVICE RETIREMENT SYSTEM OR FEDERAL EMPLOYEES RETIREMENT SYSTEM AND THAT FILED ARKANSAS STATE INCOME TAX RETURNS SINCE JULY 27, 1999; (2) ALL PERSONS REPORTING INCOME TO THE STATE, SINCE JULY 27, 1999, FROM NON-DEDUCTIBLE INDIVIDUAL RETIREMENT ACCOUNTS; AND (3) ALL OTHER PERSONS REPORTING INCOME TO THE STATE, SINCE JULY 27, 1999, FROM A RETIREMENT PLAN TO WHICH THEY MADE AFTER-TAX CONTRIBUTIONS.

The Department of Finance and Administration has been ordered to refund illegally exacted taxes to all federal retirees who participated in the Civil Service Retirement System or Federal Employees Retirement System and who filed Arkansas state income tax returns since July 27, 1999; all persons reporting income to the state, since July 27, 1999 from non-deductible individual retirement accounts, and all other persons reporting income to the state from employer-sponsored retirement plans; in which they made after tax contributions. The court ordered the State to refund all illegally exacted taxes by recalculating each class member's respective tax liability since July 27, 1999, and mail the refund, less attorney's fees and costs, directly to the taxpayer. The State shall include a Notice of Calculation with the refund setting forth the taxpayer's name, address, social security number, the income adjustments, tax adjustments, amount of tax and interest refunded for each tax year since July 27, 1999, the amount of refund net of attorney's fees and costs, the right to request verification or correction of information contained therein, and enclosing a separate claim form to correct errors.

The court ruled that these class members are entitled to a refund of the tax paid on their after-tax contributions to the extent of the net retirement income reported on line 18 of the tax returns filed since July 27, 1999, plus interest of 10% from the due date of the tax return, less attorneys fees and costs. This refund arises from an Order of the Honorable Collins Kilgore in the Circuit Court of Pulaski County, Arkansas, 13th Division, dated October 1, 2003, in the case of McFadden, et al. v. Weiss, No. OT-99-3939. The Department of Finance and Administration filed a Notice of Appeal on October 23, 2003 appealing the refund calculation, and the Arkansas Supreme Court has granted a stay (delay) of the court's order until the appeal has been decided. NO REFUNDS WILL BE GRANTED UNTIL THE APPEAL HAS BEEN DECIDED.

As a result of this lawsuit, the Department of Finance and Administration has implemented Emergency Regulation No. 2003-4 for tax years 2003 and forward. (See Page 4 for Emergency Regulation No. 2003-4.)

Additional details will be posted on this website as they become available.

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